

payments requested for a benefit year will likely exceed the reinsurance contributions that will be received for the year, the State may require that the applicable reinsurance entity reduce (or HHS on behalf of the State may reduce) reinsurance payments, so long as the manner in which payments are reduced is fair and equitable for all health insurance issuers in the individual market.

(2) The State must ensure that an applicable reinsurance entity makes payment to the health insurance issuer of a reinsurance-eligible plan after receiving a valid claim for payment from that health insurance issuer in accordance with the requirements of § 153.410.

(c) *Maintenance of records.* If a State establishes a reinsurance program, the State must maintain books, records, documents, and other evidence of accounting procedures and practices of the reinsurance program for each benefit year for at least 10 years.

#### **§ 153.250 Coordination with high-risk pools.**

(a) *General requirement.* The State must eliminate or modify any State high-risk pool to the extent necessary to carry out the reinsurance program established under this subpart.

(b) *Coordination with high-risk pools.* The State may coordinate the State high-risk pool with the reinsurance program to the extent that the State high-risk pool conforms to the provisions of this subpart.

### **Subpart D—State Standards Related to the Risk Adjustment Program**

#### **§ 153.300 [Reserved]**

#### **§ 153.310 Risk adjustment administration.**

(a) *State eligibility to establish a risk adjustment program.* (1) A State that elects to operate an Exchange is eligible to establish a risk adjustment program.

(2) Any State that does not elect to operate an Exchange, or that HHS has not approved to operate an Exchange, will forgo implementation of all State functions in this subpart, and HHS will

carry out all of the provisions of this subpart on behalf of the State.

(3) Any State that elects to operate an Exchange but does not elect to administer risk adjustment will forgo implementation of all State functions in this subpart, and HHS will carry out all of the provisions of this subpart on behalf of the State.

(b) *Entities eligible to carry out risk adjustment activities.* If a State is operating a risk adjustment program, the State may elect to have an entity other than the Exchange perform the State functions of this subpart, provided that the entity meets the standards promulgated by HHS to be an entity eligible to carry out Exchange functions.

(c) *Timeframes.* A State, or HHS on behalf of the State, must implement risk adjustment for the 2014 benefit year and every benefit year thereafter. For each benefit year, a State, or HHS on behalf of the State, must notify issuers of risk adjustment payments due or charges owed annually by June 30 of the year following the benefit year.

(d) *State summary reports.* Each State operating a risk adjustment program must submit to HHS an annual summary of risk adjustment program operations in the manner and timeframe specified by HHS.

#### **§ 153.320 Federally certified risk adjustment methodology.**

(a) *General requirement.* Any risk adjustment methodology used by a State, or HHS on behalf of the State, must be a Federally certified risk adjustment methodology. A risk adjustment methodology may become Federally certified by one of the following processes:

(1) The risk adjustment methodology is developed by HHS and published in an annual HHS notice of benefit and payment parameters; or

(2) An alternate risk adjustment methodology is submitted by a State in accordance with § 153.330, reviewed and certified by HHS, and published in an annual HHS notice of benefit and payment parameters.